

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

DAVID L. ERICKSON,

Plaintiff,

V.

SARGENT LOPEZ et al.,

## Defendants.

CASE NO. C11-5982-RJB-JRC

## REPORT AND RECOMMENDATION

NOTED FOR: APRIL 20, 2012

This 42 U.S.C. §1983 civil rights matter has been referred to the undersigned Magistrate

Judge pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (B) and Local Magistrate Judge Rules MJR 1,

MJR 3, and MJR 4. Plaintiff filed an amended complaint that added a defendant who is another

inmate, William Oliver (ECF No. 17). Plaintiff's claims against this defendant are state tort

claims. Plaintiff asked the Court to stay this action while he completed a tort claim process in

state court (ECF No. 18).

The Court denied the motion to stay the action and directed plaintiff to show cause why

the new defendant should not be summarily dismissed for

The Court, therefore, recommends that defendant William Oliver, and the tort claims in the amended complaint be dismissed from this action without prejudice.

Pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b), the parties shall have fourteen (14) days from service of this Report to file written objections. See also Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for purposes of de novo review by the district judge. See 28 U.S.C. § 636(b)(1)(C). Accommodating the time limit imposed by Fed. R. Civ. P. 72(b), the clerk is directed to set the matter for consideration on April 20, 2012, as noted in the caption.

Dated this 19<sup>th</sup> day of March, 2012.

J. K. Ward Creative

J. Richard Creature  
United States Magistrate Judge